FARAD CONTINUATION SHEET NO
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

LETTERS PATENT APPEAL NO.169 OF 2002
AGAINST W.P.NO.3740 OF 2001 WITH C.A.NO.194/2002

Office notes, office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mrs. G.K. Jadhav for the Appellant.

Mr. Peter Lobo for the Respondent No.8.

CORAM : V.C. DAGA &
R.S. MOHITE, JJ.
DATED : 24.9.2004.

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P.C.

1. Heard rival parties.

2. This appeal is directed against the order passed in Writ Petition No.3740 of 2001 by the learned Single Judge of this court whereby the writ petition came to be dismissed. One of the ground of dismissal of the writ petition appears to be the execution of the sale deed pursuant to the sanction

granted by the Charity Commissioner under Section 36 of the Bombay Public Trust Act,1950. It is not in dispute that permission and sanction has been granted by the Charity Commissioner under Section 36 of the Bombay Public Trust Act on 23.3.2001. On 29.5.2001, the sale deed has been executed. Subsequent to the execution of the sale deed, Writ Petition No.3740 of 2001 came to be filed in the month July,2001. The learned Single Judge while dismissing writ petition has relied upon the Division Bench Judgment in **Shri. Mahadeo Deosthan Wadali and ors. Vs. Joint Charity Commissioner, Nagpur and ors. 1989 Mah. L.J. 269**, wherein the learned Division Bench of this court held that once the sale deed has been executed the property loses its character as trust property and therefore, the power of revocation of sanction cannot be exercised.

3. The sale deed having been executed and registered much before filing of the writ petition, the learned Single Judge rightly held that permission or sanction accorded by the learned Charity Commissioner under Section 36 of the Bombay Public Trust Act cannot be set aside.

4. Having examined the facts and circumstances and the law laid down by the Division Bench of this court, the view taken by the learned Single Judge was the only possible view. In this view of the matter, no case is made out to interfere with the impugned order. Appeal is therefore, dismissed.

5. It is needless to mention that the person who has deposited an amount of Rs.11,000,00/- with the Registry of this court shall be entitled to withdraw said amount

after making proper application to the Registrar General. In the event of such application, the Registrar General is directed to pay the said amount by way of Payee’s Account Cheque drawn in favour of the person who had deposited amount with this court.

(V.C. DAGA, J.)

(R.S. MOHITE, J.)

FARAD CONTINUATION SHEET NO
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CIVIL APPLICATION NO. 194 OF 2002
IN
L.P.A.NO.169 OF 2002

Office notes, office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : V.C. DAGA &
R.S. MOHITE, JJ.
DATED : 24.9.2004.

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PC:

. In view of the dismissal of L.P.A.No.169 of 2002, the present civil application does not survive and accordingly the same is disposed of.

(V.C. DAGA, J.)

(R. S. MOHITE, J.)